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March 9, 2018

VIA CERTIFIED MAIL
Winnebago Industries, Inc.
605 West Crystal Lake Road
Forest City, IA 50436-2315

**Re: Notice of Violation and Intent to File Suit Under the
Federal Clean Water Act**

Dear Readers:

I am writing on behalf of Clean Water and Air, LLC ("Clean Water and Air") in regard to violations of the Federal Water Pollution Control Act, 33 USC § 1251 et. seq. (the "Clean Water Act" or "CWA"). Clean Water and Air is a Minnesota entity formed for the purpose of working to clean up waterways and fight for clean air by seeking to ensure enforcement of laws like the Federal Clean Water Act and Clean Air Act. The purpose of this letter is to put the owners and operators of Winnebago Industries, Inc. ("Winnebago Industries" or "the Facility"), 605 West Crystal Lake Road, Forest City, Iowa, on notice of Clean Water and Air's intent to file a citizen suit under Section 505 of the Clean Water Act to secure appropriate relief for the ongoing and continuing violations of Winnebago Industries' National Pollutant Discharge Elimination System ("NPDES") permit No. IA0067229 including, but not necessarily limited to, unlawful discharges of pollutants from the Facility into waters of the United States, which are in turn violations of the Clean Water Act, as described herein. This notice applies to all violations occurring within the five years immediately preceding the service of this notice letter to the full extent contemplated by the standard set forth in *Public Interest Research Group of New Jersey v. Hercules*, 50 F.3d 1239 (3rd Cir. 1995).

The Clean Water Act

Congress enacted the Clean Water Act to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 USC § 1251 (a). To achieve those goals, Section 301(a) of the CWA expressly prohibits the "discharge of any pollutant" where such discharges do not comply with the terms of any applicable NPDES permit. 33 U.S.C. §§ 1311(a), 1342.

“Discharge of a pollutant” means any “addition of a pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12). Pollutant is defined to include “industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. § 1362(6). A point source is “any discernable, confined and discrete conveyance,” 33 U.S.C. § 1362(14), and navigable waters are broadly defined as “the waters of the United States.” 33 U.S.C. § 1362(7).

Once regulated by an NPDES permit, discharges must strictly comply with all of the terms and conditions of the permit. 40 C.F.R. § 122.41. Violation of the terms or conditions of and NPDES permit is a violation of the Clean Water Act. *Id.* Once a court has determined that a defendant has violated the CWA, it must impose civil penalties. See e.g. *Atl. States Legal Found., Inc. v. Tyson Foods, Inc.*, 897 F.2d 1128, 1142 (11th Cir. 1990). Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty of up to \$32,500 per day per violation for violations between April 20, 2007 and January 12, 2009, \$37,500 per day per violation for all violations after January 12, 2009, \$51,570 per day per violation for all violations after November 2, 2015 and \$52,414 per day per violation for all violations after January 15, 2017. See also, e.g., *Natural Resources Defense Council v. Southwest Marine*, 236 F.3d 985 (9th Cir. 2000) (everyday a facility is operated in violation of its NPDES permit is a separate and distinct violation of the permit and the CWA).

In addition to civil penalties, the CWA provides for appropriate injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief. Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), permits prevailing parties or substantially prevailing parties to recover costs, including attorneys’ and experts’ fees associated with this enforcement action.

CWA Citizen Suit Provision

Section 505 of the CWA authorizes citizens to bring suit against any person who is “alleged to be in violation” of an effluent standard or limitation under the CWA. 33 U.S.C. § 1365(a). Effluent limitation is defined broadly to include “a[n] [NPDES] permit or condition thereof issued under section 1317 of this title,” and “any unlawful act under subsection (a) of 1311 of this title.” 33 U.S.C. § 1365 (f). 33 U.S.C. § 1365(b), requires that 60 days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), citizens must give notice of their intention to sue. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency (“EPA”), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the state in which the violations are occurring, and, if the alleged violator is a corporation, the registered agent of the corporation. See 40 C.F.R. § 135.2. The purpose of the notice requirement is to allow the parties to negotiate and resolve the dispute before litigation is commenced. *New Mexico Citizens for Clean Air and Water v. Espanola Mercantile Co., Inc.*, 72 F.3d. 830, 833 (10th Cir. 1996).

Winnebago Industries, Inc. Forest City, Iowa

Winnebago Industries is located in Forest City, Iowa. Forest City is situated along the banks of the Winnebago River and near both the Eagle Flats and Eight Mile Pits Wildlife Management Areas. Forest City draws thousands of people each Memorial Day weekend for a four-day Tree Town Festival. Winnebago Industries claims that the facility is the “largest motorhome manufacturing facility in the world.” Winnebago Industries’ facility operates pursuant to NPDES permit No. IA0067229. The facility discharges into Mallard Marsh and the Winnebago River.

Violations at Issue

NPDES permit holders are required to prepare and submit discharge monitoring reports (DMR’s) 40 C.F.R. § 122.41. Facilities report discharges on DMR’s, which their implementing authorities record into EPA databases. See e.g., *EPA Technical User Background Document for the Discharge Monitoring Report (DMR) Pollutant Loading Tool*, Version 1.0, January 2012. Courts have repeatedly held that data reported in DMR’s constitute admissions by the permittee and are sufficient to conclusively determine that a permit violation has occurred. Courts apply a five-year statute of limitations for Citizens seeking to enforce the Clean Water Act. *Pub. Interest Research Grp. of N.J., Inc. v. Powell Duffryn Terminals, Inc.*, 913 F.2d 64, 75 (3d. Cir. 1990), *cert denied*, 489 U.S. 1109 (1991).

Exhibit A attached hereto includes an image of the facility and an Effluent Limit Exceedances Report based upon facility DMR’s. These, and other EPA documents demonstrate, among other things, as follows:

- The Facility’s Current CWA compliance status: in “significant violation”;
- The Facility has not been in compliance with the CWA for 10 out of the last 12 quarters;
- Organics, Total Toxic effluent exceedances of as much as 933% on a given day;
- Zinc effluent exceedances of as much as 578% on a given day; and
- Repeated excess Aluminum discharges; and
- 848 days with effluent exceedances in the previous five years.

In addition to specific effluent limitations, the Facility’s permit also requires that Prairie Island shall at all times properly operate the Facility. See 40 C.F.R. § 122.41 (e) (“Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures.”). Every day a facility is operated in violation of its NPDES permit is a separate and Winnebago Industries, Inc.

distinct violation of the permit and the CWA. *Natural Resources Defense Council v. Southwest Marine* (supra).

The violations at issue here are especially significant because the Winnebago River, an impaired waterway, is a tributary of the Shell Rock River, part of the Cedar River watershed that flows via the Iowa River to the Mississippi River. It flows through rolling prairie and forest moraines, cropland, hayland, pasture, and natural woodlands. The Winnebago River offers boat access, picnic areas, trails, playgrounds, camping, accessible shoreline, and boat and shorefishing. It is also host to numerous threatened and endangered species including Bald Eagles and Ornate Box Turtles.

The nature of the contaminants also underscores the significance of the violations here. According to the Agency for Toxic Substances & Disease Registry, birth and bone disease caused by high levels of aluminum in the body have been seen in children with kidney disease and bone disease has also been seen in children taking some medicines containing aluminum. Aluminum can also be toxic to animals.

The maximum penalty amount associated with Winnebago Industries' 848 days with effluent exceedances in the previous five years totals in excess of Twenty-Five Million Dollars (\$31,000,000.00).

Conclusion

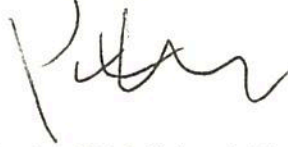
Upon expiration of the 60-day notice period, Clean Water and Air intends to file a citizen suit under Section 505(a) of the Clean Water Act for the above-referenced violations, and for any similar violations that occur after the date of this notice letter. In so doing, Clean Air and Water seeks to improve the water quality and safety of the nation's waters by securing compliance with applicable law; the maximum penalty available under the law, and appropriate injunctive relief.

During the 60-day notice period, Clean Water and Air is willing to discuss effective remedies for the violations noted in this letter, and actions that might be taken to ensure future compliance with the Clean Water Act. However, if you wish to pursue such discussions in the absence of litigation, we suggest that you initiate those discussions with the undersigned within the next 20 days so that they may be completed before the end of the 60-day notice period. Clean Water and Air does not intend to delay the filing of a complaint in federal court if discussions as to an appropriate resolution continue when that period ends.

If you have information suggesting that one or more of the violations outlined in this notice letter did not occur or is stated incorrectly, please immediately provide that information, specifying the violation in question. The 60-day notice period would also be the appropriate time to inform Clean Water and Air of any steps already taken to remedy the violations discussed in this notice.

Winnebago Industries, Inc.
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Very Truly Yours,



Patrick W. Michenfelder

PWM/tjs
Encl.

cc. Mr. Scott Pruitt (*Environmental Protection Agency Administrator*)
Ms. Jim Gulliford (*EPA Regional Administrator – Region 7*)
Mr. Chuck Gipp (*Director of Iowa Department of Natural Resources*)
Winnebago Industries, Inc. Registered Agent
Client

EXHIBIT A



Enforcement and
Compliance History Online

Effluent Limit Exceedances Report

WINNEBAGO INDUSTRIES, INC - FOREST CITY, FOREST CITY, IA, 50436-2315

Facility Information

NPDES (National Pollutant Discharge Elimination System) ID: IA0067229
FRS (Facility Registry Service) ID: I10000833162
Other NPDES (National Pollutant Discharge Elimination System) IDs associated with this FRS (Facility Registry Service) ID: None
TRI (Toxics Release Inventory) ID(s): 50436WNNBGCRYST
Major/Minor Indicator: Minor
Facility Type: NON-POTW
Latitude: 43.270103
Longitude: -93.63188
4-Digit SIC (Standard Industrial Classification) Code: --
6-Digit NAICS (North American Industry Classification System) Code: --

Receiving Watershed Information

Waterbody Name (from GNIS): Winnebago River
Watershed Name and Number (12-Digit HUC): Mallard Marsh-Winnebago River (070802030109)
Listed for Impairment: Yes
Impairment Class: Not provided.

Permit Information

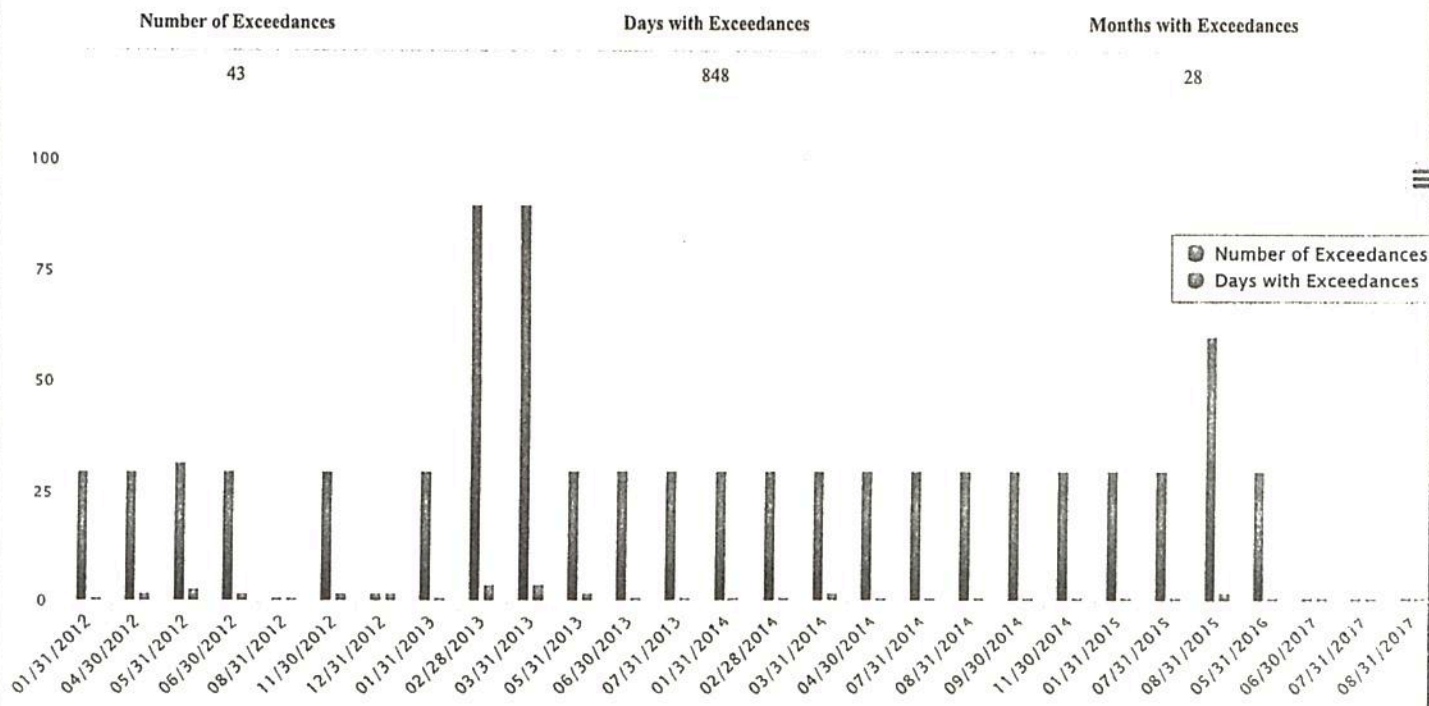
Permit Status: Administratively Continued
Permit Issuance: STATE OF IOWA
Original Issue Date: 05/17/2004
Last Issue Date: 05/17/2004
Permit Effective Date: 06/01/2004
Permit Expiration Date: 05/16/2009
DMR Signer: --
Approved Pretreatment Program: N/A
Combined Sewer Overflow (CSO) Outfall: N/A

Enforcement Information

Last Formal Enforcement Action: --
Civil Enforcement Case Number: --
DOJ/Court Docket Number: --
Type Description: --

Adjust Date Range: Jan. 2012 → Dec. 2017

Total Exceedance Counts



Exceedance Counts by Pollutant

Parameter Code	Description	Limit Type	Contains Potential Outliers?	Number of Exceedances	Days with Exceedances
00400	pH	DAILY MN		4	4
00530	Solids, total suspended	30DA AVG		6	180
00530	Solids, total suspended	DAILY MX		3	2
00556	Oil & grease	30DA AVG		9	270
00556	Oil & grease	DAILY MX		1	--
01092	Zinc, total (as Zn)	30DA AVG		3	90
01092	Zinc, total (as Zn)	DAILY MX		2	--
01105	Aluminum, total (as Al)	30DA AVG		10	300
01105	Aluminum, total (as Al)	DAILY MX		3	--
78141	Organics, total toxic (TTO)	DAILY MX		2	2

Exceedance Details

Date	Outfall	Parameter	Average Daily Flow (MGD)	Limit Type	DMR Value	Limit Value	Percent Exceedance	Load over Limit (lb/period)	Days per Period	Days with Exceedances
01/31/2012	SUM	01105 - Aluminum, total (as Al)	--	30DA AVG	0.3447 kg/d	0.3129 kg/d	10	--	31	30
04/30/2012	SUM	01105 - Aluminum, total (as Al)	--	DAILY MX	0.7029 kg/d	0.6032 kg/d	17	--	30	--
04/30/2012	SUM	01105 - Aluminum, total (as Al)	--	30DA AVG	0.7029 kg/d	0.3129 kg/d	125	--	30	30
05/31/2012	SUM	00530 - Solids, total suspended	--	DAILY MX	3.67 kg/d	3.41 kg/d	8	--	31	1
05/31/2012	SUM	00530 - Solids, total suspended	--	DAILY MX	97 mg/L	60 mg/L	62	--	31	1
05/31/2012	SUM	00556 - Oil & grease	--	30DA AVG	1.86 kg/d	1.47 kg/d	26	--	31	30
06/30/2012	SUM	01105 - Aluminum, total (as Al)	--	DAILY MX	1.38 kg/d	0.6032 kg/d	129	--	30	--
06/30/2012	SUM	01105 - Aluminum, total (as Al)	--	30DA AVG	0.9297 kg/d	0.3129 kg/d	197	--	30	30
08/31/2012	SUM	00400 - pH	--	DAILY MN	7.05 SU	7.50 SU	--	--	31	1
11/30/2012	SUM	01092 - Zinc, total (as Zn)	--	DAILY MX	0.1905 kg/d	0.1361 kg/d	40	--	30	--
11/30/2012	SUM	01092 - Zinc, total (as Zn)	--	30DA AVG	0.1905 kg/d	0.0590 kg/d	223	--	30	30

Date	Outfall	Parameter	Average Daily Flow (MGD)	Limit Type	DMR Value	Limit Value	Percent Exceedance	Load over Limit (lb/period)	Days per Period	Days with Exceedances
12/31/2012	SUM	78141 - Organics, total toxic (TTO)	--	DAILY MX	22 mg/L	2.13 mg/L	933	--	31	1
12/31/2012	SUM	78141 - Organics, total toxic (TTO)	--	DAILY MX	0.8299 kg/d	0.1224 kg/d	578	--	31	1
01/31/2013	SUM	00556 - Oil & grease	--	30DA AVG	34.90 mg/L	26 mg/L	34	--	31	30
02/28/2013	SUM	00556 - Oil & grease	--	30DA AVG	1.54 kg/d	1.47 kg/d	4	--	28	30
02/28/2013	SUM	00556 - Oil & grease	--	30DA AVG	45.20 mg/L	26 mg/L	74	--	28	30
02/28/2013	SUM	01092 - Zinc, total (as Zn)	--	30DA AVG	0.3819 kg/d	0.0590 kg/d	548	--	28	30
02/28/2013	SUM	01092 - Zinc, total (as Zn)	--	DAILY MX	0.3819 kg/d	0.1361 kg/d	181	--	28	--
03/31/2013	SUM	00530 - Solids, total suspended	--	30DA AVG	3.24 kg/d	1.76 kg/d	84	--	31	30
03/31/2013	SUM	00530 - Solids, total suspended	--	30DA AVG	107 mg/L	31 mg/L	245	--	31	30
03/31/2013	SUM	00530 - Solids, total suspended	--	DAILY MX	107 mg/L	60 mg/L	78	--	31	--
03/31/2013	SUM	00556 - Oil & grease	--	30DA AVG	29.40 mg/L	26 mg/L	13	--	31	30
05/31/2013	SUM	01105 - Aluminum, total (as Al)	--	30DA AVG	0.9057 kg/d	0.3129 kg/d	189	--	31	30
05/31/2013	SUM	01105 - Aluminum, total (as Al)	--	DAILY MX	0.9057 kg/d	0.6032 kg/d	50	--	31	--
06/30/2013	SUM	00530 - Solids, total suspended	--	30DA AVG	35 mg/L	31 mg/L	13	--	30	30
07/31/2013	SUM	01105 - Aluminum, total (as Al)	--	30DA AVG	0.3311 kg/d	0.3129 kg/d	6	--	31	30
01/31/2014	SUM	00556 - Oil & grease	--	30DA AVG	28.40 mg/L	26 mg/L	9	--	31	30
02/28/2014	SUM	00556 - Oil & grease	--	30DA AVG	26.40 mg/L	26 mg/L	2	--	28	30
03/31/2014	SUM	00556 - Oil & grease	--	30DA AVG	32.73 mg/L	26 mg/L	26	--	31	30
03/31/2014	SUM	00556 - Oil & grease	--	DAILY MX	60.20 mg/L	52 mg/L	16	--	31	--
04/30/2014	SUM	00556 - Oil & grease	--	30DA AVG	35.80 mg/L	26 mg/L	38	--	30	30

Date	Outfall	Parameter	Average Daily Flow (MGD)	Limit Type	DMR Value	Limit Value	Percent Exceedance	Load over Limit (lb/period)	Days per Period	Days with Exceedances
07/31/2014	SUM	01105 - Aluminum, total (as Al)	--	30DA AVG	0.3401 kg/d	0.3129 kg/d	9	--	31	30
08/31/2014	SUM	01092 - Zinc, total (as Zn)	--	30DA AVG	0.0635 kg/d	0.0590 kg/d	8	--	31	30
09/30/2014	SUM	01105 - Aluminum, total (as Al)	--	30DA AVG	0.5261 kg/d	0.3129 kg/d	68	--	30	30
11/30/2014	SUM	01105 - Aluminum, total (as Al)	--	30DA AVG	0.4762 kg/d	0.3129 kg/d	52	--	30	30
01/31/2015	SUM	00530 - Solids, total suspended	--	30DA AVG	35 mg/L	31 mg/L	13	--	31	30
07/31/2015	SUM	01105 - Aluminum, total (as Al)	--	30DA AVG	0.3283 kg/d	0.3129 kg/d	5	--	31	30
08/31/2015	SUM	00530 - Solids, total suspended	--	30DA AVG	38 mg/L	31 mg/L	23	--	31	30
08/31/2015	SUM	00530 - Solids, total suspended	--	30DA AVG	1.87 kg/d	1.76 kg/d	6	--	31	30
05/31/2016	SUM	01105 - Aluminum, total (as Al)	--	30DA AVG	0.4660 kg/d	0.3129 kg/d	49	--	31	30
06/30/2017	SUM	00400 - pH	--	DAILY MN	7.34 SU	7.50 SU	--	--	30	1
07/31/2017	SUM	00400 - pH	--	DAILY MN	7.20 SU	7.50 SU	--	--	31	1
08/31/2017	SUM	00400 - pH	--	DAILY MN	7.46 SU	7.50 SU	--	--	31	1